

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

**JANY LEVEILLE,
SIRAJ IBN WAHHAJ,
HUJRAH WAHHAJ,
SUBHANAH WAHHAJ, and
LUCAS MORTON,**

Defendants.

NO. 18-CR-02945-WJ

FIRST AMENDED STIPULATED SCHEDULING ORDER

On October 3, 2018, the Court entered an Order designating this case complex, vacating the standard scheduling order and trial setting, and ordering the parties to submit within thirty (30) days a proposed order setting a schedule for discovery and the filing of pretrial motions, hearings upon such motions, and trial. (Doc. 49). On December 11, 2019, the Court entered a Stipulated Scheduling Order setting this matter for trial April 13, 2020 and setting discovery and motions deadlines. (Doc. 74.) The Court further ordered that, in the event of a superseding indictment, the parties would confer as to amending the scheduling order. On March 13, 2019, the Grand Jury returned a superseding indictment, adding charges under 18 U.S.C. §§ 2339A (providing material support to terrorists); 1117 (conspiracy to murder an officer or employee of the United States); 1201(a) (kidnapping); and 1201(c)(conspiracy to commit kidnapping). Additional time is needed to complete investigation of this matter, to declassify discoverable materials, and to complete discovery. The parties agree that all discovery and motions deadlines

can be adjusted without adjusting the current April trial setting. Accordingly, the parties submit a proposed amended stipulated scheduling order as follows:

Trial

Trial is set for April 13, 2020, at 9:00 a.m., Bonito Courtroom.

Jury instructions shall be filed by February 24, 2020.

Objections to jury instructions shall be filed March 9, 2020.

Responses to Objections to jury instructions March 23, 2020.

Motions in limine shall be filed no later than March 2, 2020 and responses thereto fourteen (14) days after filing.

Jencks material shall be provided March 2, 2020.

Witness and exhibit lists, and voir dire, shall be filed March 2, 2020. The parties agree to exchange or make available all exhibits at that time.

Objections to witness and exhibit lists, and voir dire, shall be due March 16, 2020.

Responses to objections to witness and exhibit lists, and voir dire, shall be due March 23, 2020.

Plea agreements shall be entered no later than two weeks before trial.

Discovery

The United States will complete all discovery, including all expert disclosures, no later than July 12, 2019. The United States agrees it will not delay disclosure until the deadline if the material is in its possession and can otherwise be disclosed. The United States agrees that if it becomes known that discovery that it intends to produce will not be declassified by July 12,

2019, it will immediately notify the defense and provide sufficient information about the nature of the discovery for the defense to raise any appropriate motion with the Court.

Defendants will complete all discovery, including expert disclosures, no later than September 13, 2019.

If it becomes clear that the Classified Information Procedures Act (CIPA), 18 U.S.C. App. III, causes significant delays in the processing of discovery, counsel for the United States will advise the Court and will, if necessary, seek an extension of the deadline for discovery and amendment of other deadlines and settings. All materials exchanged in discovery will be subject to the Sealed Protective Order entered by this Court on September 28, 2018 (Doc. 45), except to the extent the Sealed Protective Order conflicts with CIPA, in which case CIPA shall govern. If CIPA concerns arise the government will propose a CIPA Protective Order for all parties.

Motions Deadlines

All motions concerning discovery shall be filed no later than October 11, 2019. Responses to these motions shall be governed by the Federal Rules of Criminal Procedure and this Court's Local Rules.

Daubert Motions and notices of co-conspirator statements (*James*) shall be due October 11, 2019.

Responses to *Daubert* Motions and notices of co-conspirator statements (*James*) shall be due October 25, 2019.

Replies to *Daubert* Motions and notices of co-conspirator statements (*James*) will be due November 1, 2019.

Substantive motions (government and defense); Fed. R. Evid. 404(b) and 609 notices; and *res gestae* disclosure by government shall be filed November 27, 2019.

Responses to substantive motions; Objections/responses to Fed. R. Evid. 404(b) and 609 notices; and *res gestae* disclosure due December 11, 2019.

Replies to substantive motions; Fed. R. Evid. 404(b) and 609 notices; and *res gestae* disclosure due December 18, 2019.

The Court, having considered the parties' representations and proposals, and finding the proposals to be well taken,

THE COURT FINDS THAT, given the complexity of the case, there is good cause for an exclusion, for the purposes of the Speedy Trial Act computation pursuant to 18 U.S.C. § 3161(h)(8)(B)(ii), of the time between the date of filing of the government's motion and the date on which a future conference may be held to address other pretrial issues, or, if no conferences are held, then the date the last-filed motion is resolved by the Court, and that the ends of justice that would be served by granting the exclusion of time outweigh the best interest of the public and the defendants in a speedy trial. The Court further finds that given the complex nature of this matter, appointed counsel should be permitted to submit billing on an interim basis.

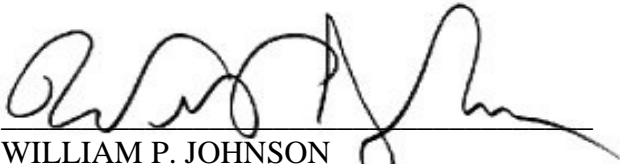
THE COURT FURTHER ORDERS:

1. The Court adopts the parties' stipulated schedule, as described above.
2. All other pretrial issues not otherwise addressed here should be raised and discussed as appropriate at future conferences to be scheduled by the Court. Such issues may include scheduling of discovery of witness statements, informant identities, and *Brady* and

Giglio material; and scheduling of disclosure of audio recordings and transcripts anticipated to be used at trial and challenges to such anticipated evidence.

IT IS SO ORDERED.

DATED: April 3, 2019.



WILLIAM P. JOHNSON
CHIEF UNITED STATES DISTRICT JUDGE

Stipulated to by:

George C. Kraehe, Assistant U.S. Attorney
Kimberly Brawley, Assistant U.S. Attorney
Troy A. Edwards, Jr., Trial Attorney
National Security Division, Counterterrorism Section
Kari Converse and Angelica Hall for Jany Leveille
Shammara Henderson and Tom Clark for Siraj Ibn Wahhaj
Carey Corlew Bhalla and Theresa Duncan for Hujrah Wahhaj
Billy Blackburn and Ryan J. Villa for Subhanah Wahhaj
Amy Sirignano and Marc Lowry for Lucas Morton